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 Attorneys for Teck Cominco Alaska Incorporated

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF ALASKA

ENOCH ADAMS, JR., LEROY ADAMS,	)	
ANDREW KOENIG, JERRY NORTON,	)	
DAVID SWAN, JOSEPH SWAN,	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
TECK COMINCO ALASKA	)	
INCORPORATED,	)	
Defendant,	)	
	)	
NANA REGIONAL CORPORATION, and	)	
NORTHWEST ARCTIC BOROUGH,	)	
Intervenor-Defendants.	)	Case No.: A04-00049 CV (JWS)
	)	

**MOTION FOR ENTRY OF ORDER DISMISSING CONCEDED CLAIMS  
 AND  
ESTABLISHING LIABILITY FOR CONCEDED CLAIMS**

In the plaintiffs' trial brief, they conceded various claims,<sup>1</sup> as follows:

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<sup>1</sup> Statements in a trial brief "may be considered admissions of the party".  
American Title Insurance Co. v. Lacelaw Corp., 861 F.2d 224, 226-227 (9th Cir. 1988).

## Third Claim for Relief:

All WET Reporting claims

## Fourth Claim for Relief:

All claims

## Fifth Claim for Relief:

All claims

## Sixth Claim for Relief:

All remaining claims

## Ninth Claim for Relief:

All remaining claims

## Tenth Claim for Relief:

All remaining claims

[Docket 308 at 3, Table 1.] Teck Cominco asks that the court enter an order dismissing the above referenced claims. In light of the court's recent orders, moreover, Teck Cominco concedes that it will no longer defend the following claims as to liability at trial, although it expressly reserves the right to appeal from any finding of liability (and gives notice to all concerned that it fully intends to bring such an appeal). In light of this concession, it is appropriate for the court to enter an order establishing liability as to the following alleged violations:

<u>TDS End of Pipe Daily</u>	<u>Violations Alleged</u>
May 25-29, 2004	5
May 30-31, 2004	2
August 29-Sept. 4, 2004	7
May 25-28, 2005	4
May 29-June 4, 2005	7
June 5-6 2005	2
June 19-25, 2005	7
June 26-July 2, 2005	7
July 3-9, 2005	7
July 17-23, 2005	7
July 24-30, 2005	7

July 31-August 6, 2005	7
August 7-13, 2005	7
August 14-20, 2005	7
August 21- 27, 2005	7
August 28-September 3, 2005	7
September 18-24, 2005	7
September 25-October 1, 2005	7
October 2-6, 2005	5
May 9-13, 2006	5
May 14-16, 2006	3
September 3-9, 2006	7
September 10-16, 2006	7
October 1-2, 2006	2
June 10-16, 2007	7
June 17-23, 2007	7
<u>June 24-30, 2007</u>	<u>7</u>
<b>TOTAL</b>	<b>161</b>

**Cyanide Daily**

May 25, 2000	1
May 29, 2000	1
June 10, 2000	1
June 13, 2000	1
June 24,2000	1
June 14, 2001	1
June 18, 2001	1
July 22, 2001	1
July 30, 2001	1
August 13, 2001	1
August 16, 2001	1
August 20, 2001	1
August 27, 2001	1
June 10, 2002	1
September 30, 2002	1
May 10, 2003	1
May 13, 2003	1
June 17, 2003	1
June 24, 2003	1
July 1, 2003	1
July 15, 2003	1
July 21, 2003	1
July 29, 2003	1
August 12, 2003	1
May 23, 2005	1

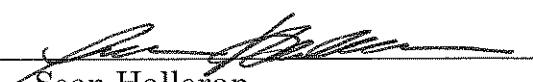
August 9, 2005	1
September 5, 2005	1
September 12, 2005	1
September 19, 2005	1
October 3, 2005	1
May 11, 2006	1
May 15, 2006	1
June 5, 2006	1
<u>October 1, 2006</u>	<u>1</u>
<b>TOTAL</b>	<b>34</b>

**WET Daily**

May-99	1
Jun-99	1
Jul-99	1
Aug-00	1
August 16, 2001	1
August 18, 2001	1
August 20, 2001	1
Aug-02	1
September 4, 2002	1
September 24, 2002	1
<u>August 3, 2004</u>	<u>1</u>
<b>TOTAL</b>	<b>11</b>

DATED at Anchorage, Alaska, this 22<sup>nd</sup> day of April, 2008.

HARTIG RHODES HOGE & LEKISCH, P.C.  
Attorneys for Teck Cominco Alaska, Inc.

By:   
Sean Halloran

CERTIFICATE OF SERVICE

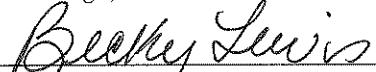
I hereby certify that on the 22nd day of April, 2008,  
a true and correct copy of the foregoing was served,  
via electronic service, on the below identified parties of  
record:

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F:\Docs\62880\184\PLEADINGS\Concede liability